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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,187	04/07/2004	Karen U. Paradee	5406-7	7422

7590 07/05/2005

Needham James Boddie, II  
Myers Bigel Sibley & Sajovec, P.A.  
P.O. Box 37428  
Raleigh, NC 27627

EXAMINER

ROYAL, PAUL

ART UNIT PAPER NUMBER

3611

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/820,187

Applicant(s)

PARDEE

Examiner

Paul Royal

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/07/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 04/07/04 has been considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (US 5,759,043).

Craig teaches a portable card that facilitates timely exercise management comprising:

a base (12) having a generally rigid, rectangular configuration with first and second planar surfaces, the base made of paper stock material and laminated with a clear plastic film, the base being approximately four inches in height by six inches in width (generally rectangular), see column 3, lines 37-58; and

indicia (18, 20,22,24,26) on a first planar surface (front) and indicia (see Figure 2) on a second planar surface (rear) arranged in a table of columns and rows as applicable,

an aperture (28) formed through the base that is configured for attachment to another article.

With specific regards to the recited indicia of claims 1-8, 12-19, 23-29, 32-33, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide whatever indicia is desired by the user (whether it be exercise instructions, scheduling information for repositioning bedridden patients, or promotional information), since it would only depend on the intended use of the assembly and the information desired to be displayed. Further it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability, see MPEP 2112.01 paragraph III. See also *In re Gulack*, 703 F.2d 1381, 1385-86, 217 USPQ 401, 404 (Fed. Cir. 1983).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lambert teaches a method and system for documenting taking medication. Sadler, Jr. et al. teaches an event reminder device. O'Brien teaches a shirt pocket card. Saari teaches a planner. Freund teaches a scheduling system. Anderson teaches an exercise program method. Durand teaches a daily planner. Womack teaches a chore buddy.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.

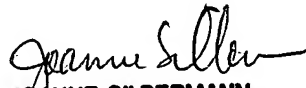
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal  
6/27/2005

Paul Royal  
Examiner  
Art Unit 3611

  
**JOANNE SILBERMANN**  
**PRIMARY EXAMINER**